

Message Text

CONFIDENTIAL

PAGE 01 BRASIL 10671 311719Z

ACTION ARA-14

INFO OCT-01 ISO-00 USIE-00 IGA-02 L-03 H-01 SP-02
AID-05 EB-08 TRSE-00 SS-15 STR-05 OMB-01 CEA-01
CIAE-00 DODE-00 INR-07 NSAE-00 PA-01 PRS-01
COME-00 SSO-00 NSCE-00 INRE-00 /067 W
-----051215 311754Z /41

O 311516Z DEC 77

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 5421

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 10671

E.O. 11652: GDS

TAGS:

SUBJ: U.S. BANK OPTS OUT OF LOAN TO BRAZIL

1. ACCORDING TO CENTRAL BANK DIRECTOR FERNAO BRACHER AND MORGAN GUARANTY REPRESENTATIVE ROBER BARBOUR, MORGAN GUARANTY DECIDED NOT TO PARTICIPATE IN A SYNDICATED ERODOLLAR LOAN FOR LIGHT SERVICOS DE JURISDICTION IN CASE OF OF DEFAULT OR OTHER DEVELOPMENT REQUIRING LEGAL SETTLEMENT. THE LOAN AMOUNTED TO \$150 MILLION, WAS GUARANTEED BY THE GOVERNMENT OF BRAZIL, AND WAS SIGNED IN MID-DECEMBER IN DUSSELDORF, AT THE HEADQUARTERS OF WESTDEUSCHE LANDERBANK GIROZENTRALE, THE BANK THAT COORDINATED THE SYNDICATION.

2. BARBOUR ACKNOWLEDGED TO FINATT THAT MORGAN'S LEGAL DEPARTMENT DECIDED TO INVOKE RELEVANT PORTIONS OF THE FOREIGN SOVEREIGNITIES AND IMMUNITIES ACT OF 1976 TO INSIST THAT NEW YORK COURTS BE EXPLICITLY DESIGNATED AS HAVING LEGITIMATE JURISDICTION IN THE EVENT OF LEGAL PROCEEDING ARISING UNDER THE LOAN TO LIGHT. BRACHER SPECIFICALLY POINTED OUT THAT MORGAN TOOK THE INITIATIVE TO QUOTE CHANGE THE RULES AND END QUOTE. HE EXPLAINED THAT UNDER BRAZILIAN LAW BRAZIL CANNOT ACCEPT THE LOSS OF SOVEREIGNTY
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BRASIL 10671 311719Z

IMPLIED BY THE PROVISION MORGAN WANTED.

3. MORGAN GUARANTY IS ONE OF THE THREE LARGEST U.S. BANKS LENDING TO BRAZIL AND ITS WITHDRAWAL FROM THE LOAN TO LIGHT IN LATE STAGES JUST PRIOR TO SIGNING HAS RAISED QUESTIONS REGARDING THE ATTITUDE OF FOREIGN BANKS TOWARD BRAZIL. FRONT-PAGE REPORTING BY THE GAZETA MERCANTILE HAS SERVED TO BRING THE MATTER

BEFORE THE PUBLIC, SOMEWHAT TO THE DISPLEASURE OF BOTH MORGAN GUARANTY AND THE CENTRAL BANK. PRESS REPORTS THAT CITY BANK AND CONTINENTAL ILLINOIS ALSO PULLED OUT OF THE LIGHT LOAN HAVE PROVEN TO BE INCORRECT. CITY BANK DID NOT PARTICIPATE BUT, ACCORDING TO ITS REPRESENTATIVE, FOR REASONS OTHER THAN LEGAL QUESTION RAISED BY MORGAN. CONTINENTAL ILLINOIS DID IN FACT PARTICIPATE IN THE LOAN TO LIGHT. BARBOUR HAS SAID THAT A FRENCH BANK EXPRESSED SYMPATHY WITH MORGAN'S POSITION BUT THAT OTHER BANKS HAVE NOT DECLARED THEMSELVES ON THE ISSUE.

4. BOTH BARBOUR STRESSED A NEED FOR SERIOUS TALKS TO RECONCILE THEIR POSITIONS. MORGAN GUARANTY OFFICIALS FROM NEW YORK ARE SCHEDULED TO MEET WITH THE CENTRAL BANK IN BRASILIA ON JANUARY 11, 1978. THE MORGAN REPRESENTATIVE IN SAO PAULO HAS STATED PUBLICLY THAT HIS BANK PLANS TO CONTINUE LENDING TO BRAZIL AND THAT THE CURRENT PROBLEM AFFECTS ONLY LOANS TO, OR GUARANTEED BY, THE GOB ITSELF. MORGAN RECENTLY PARTICIPATED, FOR INSTANCE, IN A LOAN TO TELES P WHICH WAS GUARANTEED BY TELEBRAS. ON THE OTHER HAND, BRACHER AND BARBOUR AGREED THAT MORGAN SHOULD NOT TAKE PART IN A \$200 MILLION LOAN CURRENTLY BEING ORGANIZED BY MANUFACTURERS' HANOVER FOR FEPASA. THE CENTRAL BANK IS ANXIOUS TO AVOID ANOTHER INCIDENT AND POSSIBLE NEGATIVE REPERCUSSIONS ON BRAZIL'S RELATIONS WITH THE INTERNATIONAL FINANCIAL COMMUNITY. BRACHER STRESSED TO FINATT, HOWEVER, THAT THE CENTRAL BANK HAS NOT QUOTE SUSPPENDED END QUOTE BORROWING FROM MORGAN GUARANTY
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BRASIL 10671 311719Z

(AS REPORTED IN THE PRESS) BUT RATHER WANTS FIRST TO HOLD DISCUSSIONS ON THE OUTSTANDING CIMPLEX LEGAL QUESTIONS RAISED BY MORGAN'S WITHDRAWAL FROM THE LOAN TO LIGHT.

5. EMBASSY COMMENT: IT IS OBVIOUSLY IN THE INTERESTS OF BOTH BRAZIL AND THE FOREIGN BANKS TO RESOLVE THE ISSUE OT LEGAL JURISDICTION OVER LOANS TO BRAZIL AS EXPEDITIOUSLY AS POSSIBLE. BRAZIL'S LARGE FOREIGN DEBT MADE IT PARTICULARLY SENSITIVE TO ISSUES SUCH AS THIS IN PART BECAUSE OF THIER POTENTIAL FOR DISTORTION AND MISLEADING IMPRESSIONS IN PRESS COVERAGE. THE MOTIVES BEHIND MORGAN GUARANTY'S INITIATIVE ARE NOT CLEAR. IT MAY BE SIMPLY A MOVE TO FURTHER MINIMIZE THE RISK OF LENDING TO BRAZIL. HOWEVER, THE EXISTENCE OF CONSIDERABLE INTERNATIONAL LIQUIDITY AND CONTINUED SLUGGISH LOAN DEMAND IN THE US AND EUROPE SUGGESTS THAT BRAZIL IS IN A STRONG BARGAINING POSITION. NOT ONLY DOES ITS LAW APPARENTLY PRECLUDE ACCEPTANCE OF FOREIGN LEGAL JURISDICTION OVER LOANS TO THE GOB, BUT ALSO BRAZIL HAS BEEN WORKING SLOWLY AND SUCCESSFULLY TO EXTEND THE MATURITIES AND REDUCE INTEREST AND SERVICE COSTS OF ITS RECENT FOREIGN BORROWING. THESE FACTS SUGGEST THAT MORGAN GUARANTY MAY HAVE TO BACK OFF FROM ITS DEMANDS IF IT WISHES TO MAINTAIN ITS POSITION AS ONE OF THE LEADING LENDERS TO BRAZIL.

ON THE OTHER HAND, THE CENTRAL BANK WANTS TO SETTLE THE MATTER
AS QUICKLY AS POSSIBLE AND WITH A MINIMUM OF ADVERSE IMPACT ON
BRAZIL'S ABILITY TO CONTINUE TO RAISE SUBSTANTIAL FOREIGN LOANS
TO FINANCE THE STILL SIZEABLE CURRENT ACCOUNT DEFICIT AND DEBT
SERVICING BURDEN.

JOHNSON

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BANK LOANS
Control Number: n/a
Copy: SINGLE
Sent Date: 31-Dec-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977BRASIL10671
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780004-0771
Format: TEL
From: BRASILIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t1977121/aaaaaaqu.tel
Line Count: 122
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8ee120fb-c188-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 101466
Secure: OPEN
Status: NATIVE
Subject: U.S. BANK OPTS OUT OF LOAN TO BRAZIL
TAGS: EFIN, BR, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/8ee120fb-c188-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009